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Committee on Economic, Social and Cultural Rights

Sixty-first session

Summary record of the 24th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 7 June 2017, at 3 p.m.

Chair: Ms. Bras Gomes

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Combined second and third periodic reports of Liechtenstein

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The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined second and third periodic reports of Liechtenstein (E/C.12/LIE/2-3; E/C.12/LIE/Q/2-3 and Add.1)

1. *At the invitation of the Chair, the delegation of Liechtenstein took places at the Committee table.*

2. **Mr. Frick** (Liechtenstein), introducing his country's combined second and third periodic reports (E/C.12/LIE/2-3), said that the Government of Liechtenstein was committed to strengthening the United Nations treaty body system and fully supported the implementation of General Assembly resolution 68/268.

3. In considering the situation of Liechtenstein, it was necessary to bear in mind that around one third of its population of 38,000 were foreigners and that over half of employees commuted into the country every day, mostly from Switzerland and Austria.

4. Despite the financial crisis, the unemployment rate in recent years had remained at or below 2.5 per cent among the general population and at 3 per cent among persons aged between 15 and 24 years of age.

5. The fall in the gross domestic product brought about by the financial crisis had obliged the State to cut spending and to introduce adjustments and reforms to the social security system. However, no substantial cuts to benefits had taken place and, as a result of measures taken after 2008, the State budget was currently in a very healthy position. Social security and educational standards were very high and the strong economy offered a broad range of employment opportunities.

6. In December 2016, the Liechtenstein Human Rights Association had been founded, in accordance with the recommendations of several human rights bodies and the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Association, which had a broad mandate, was responsible for advising and supporting victims of human rights violations, carrying out investigations and issuing recommendations on draft legislation.

7. The Government had improved the protection offered to victims, particularly victims of domestic violence, by adopting the Victims Assistance Act and establishing an office that provided such victims with immediate assistance and long-term support. Furthermore, the law governing sexual offences had been amended in 2011 with a view to expanding the legal protection provided for victims and the practical measures taken to tackle violence against women and children. The catalogue of offences that were prosecuted automatically had been extended to include dangerous threats against close family members, stalking, rape and sexual assault in marriages and partnerships, and forced marriage. The amendments had also strengthened the rights of victims in criminal proceedings.

8. The adoption in 2007 of the Law on the Declaration of General Applicability of Collective Agreements had enabled collective agreements to be applied to 13 sectors of the economy. In addition, the Liechtenstein Chamber of Commerce and Industry had established a collective agreement that covered approximately 12,000 employees. Although around 10,000 employees, representing some 28 per cent of the workforce, were still not covered by a collective agreement, the majority of them worked in the financial services sector, where average wages were among the highest in the country. It was also worth mentioning that the average salary in Liechtenstein — around 6,500 Swiss francs (SwF) per month — was relatively high in comparison to that in other countries. The establishment of a tripartite commission responsible for monitoring the labour market served to prevent "wage dumping" and the circumvention of regulations on the minimum wage.

9. In recent years, the Government had taken steps to improve the performance of migrant children in the education system. In 2008, measures to lower the language barrier

for children whose mother tongue was not German had been extended to kindergartens. Several studies carried out under the Programme for International Student Assessment had shown that the gap in achievement between foreign-language speakers from low-education households and their peers had narrowed in recent years.

10. The Children and Youth Act of 2009 established the principle of non-discrimination and the right to a violence-free upbringing. It strengthened protection for children and teenagers and set out regulations governing the obligation to report situations in which a child's welfare was in danger. The Ombuds Office for Children and Young People, which had recently been integrated into the Liechtenstein Human Rights Association, offered counselling to children and parents who were experiencing difficulties. Amendments to the Sexual Offences Act increased the protection of children from sexual abuse and other forms of sexual violence. New criminal offences such as child grooming had been introduced and the criminalization of child pornography and child prostitution had been expanded.

11. Amendments to the Asylum Act, which had entered into force in January 2017, streamlined asylum procedures, including those concerning cases in which asylum requests were inadmissible. The amendments introduced time limits on the issuing of an initial decision and provided that appeals against decisions taken by the Government could have a suspensive effect. Furthermore, persons who had been granted leave to remain in Liechtenstein on a temporary basis could be granted a residence permit if they satisfied certain conditions.

12. In response to recommendations made by the Committee (E/C.12/LIE/CO/1, para. 25), the Government had begun the process of amending the Foreigners Act to ensure that persons residing in Liechtenstein could not have their permanent residence permits revoked even if they were permanently and substantially dependent on social assistance. The amendments in question, which were expected to come into force in early 2018, would also repeal the article obliging the Office of Social Services to notify the Migration and Passport Office when a non-national had received over SwF 75,000 in social assistance.

13. **Mr. Dasgupta** (Country Rapporteur) said that the two cases cited by the delegation, in which a court had based its decision on article 13 (3) of the Covenant, and other cases in which a party had invoked a provision of the Covenant, clearly demonstrated that the Covenant could be and had been invoked in a court of law.

14. The Committee welcomed the establishment of the Liechtenstein Human Rights Association but wished to know more about how that body functioned and how its autonomy was guaranteed. In particular, it wished to know who elected the members of the Association and how its modest budget of SwF 350,000 sufficed to cover salaries, rent and other unavoidable items of expenditure.

15. The official development assistance provided by the Government fell short of the commitment to development spending of 0.7 per cent of gross national income (GNI), which the State party had not met since 2012. The Committee urged the State party to remedy the situation.

16. Noting that States were responsible for cooperating with each other to prevent tax evasion, and that Liechtenstein had recently adopted measures to promote greater transparency in such matters, including agreements on the exchange of tax data with some 60 countries, he said that he would be grateful for further information on the scope and extent of such data exchanges and the conditions under which they operated.

17. The Committee welcomed the amendments made to article 283 of the Criminal Code to prohibit discrimination on the grounds of language, nationality, ethnicity, religion, ideology, gender, disability, age and sexual orientation but wished to know why the amendments did not cover discrimination on the grounds of property, birth or other social status. The Committee would welcome further information on the implementation and outcome of the National Action Plan against Racism and on reports that women wearing headscarves had faced discrimination when seeking accommodation and employment. Had the authorities received any complaints about such discrimination and, if so, what had been the outcome of the investigations into those complaints?

18. Noting that only 22 per cent of parliamentarians were women, he asked what the corresponding percentage was among senior members of the civil service. He wondered whether the State party had considered using temporary special measures to improve the representation of women decision makers in legislative and executive bodies.

19. **Mr. Risch** (Liechtenstein) said that the Liechtenstein Human Rights Association was an independent institution whose members were elected from non-governmental organizations (NGOs) and other civil-society groups.

20. **Mr. Frick** (Liechtenstein) said that the board of the Association was elected by the institution itself and not by the Government. In addition to its budget of SwF 350,000, which it was free to spend as it wished, it was entitled to raise funds from the private sector.

21. Although it was true that the official development assistance provided by the Government had fallen to 0.5 per cent of GNI, only seven States in the world contributed a higher percentage than Liechtenstein. The Government remained committed to raising its contribution to 0.7 per cent of GNI.

22. In 2009, the Government had decided to take significant steps to support international cooperation and regulations in the area of tax transparency. Its efforts in that regard were carried out through its membership of the European Economic Area, its cooperation with the Global Forum on Transparency and Exchange of Information for Tax Purposes and other relevant bodies and through multilateral or bilateral negotiations and treaties. The Government had joined the group of early adopters of the initiative to implement the new global standard on the automatic exchange of financial information. Although not a member of the Organization for Economic Cooperation and Development (OECD), Liechtenstein had been assigned a key role in the OECD body responsible for developing the standard. The Government had implemented all the primary and secondary legislation required and had established an agreement with the European Union on the automatic exchange of information. The first exchanges under that agreement, which had entered into force in January 2016, were due to take place in 2017.

23. In recent years, the Government had successfully negotiated 17 double-taxation agreements in accordance with OECD standards, established 27 tax information exchange agreements, ratified the Convention on Mutual Administrative Assistance in Tax Matters and signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information. Arrangements that complied with OECD standards were currently in place to enable information on tax matters to be exchanged with over 90 partners. Liechtenstein had been assigned a rating of "largely compliant" in the peer review carried out by the Global Forum on Transparency and Exchange of Information for Tax Purposes, which demonstrated that, in legal and practical terms, it complied with OECD standards on tax matters. It had also participated actively in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and had adopted the agreement established at the Conference. The Government reported to the relevant bodies on the measures that it took to prevent corruption, money-laundering and organized crime. As a result of all the efforts outlined above, it was no longer possible for tax evasion to be practised in Liechtenstein.

24. **Mr. Hasler** (Liechtenstein), responding to the question on gender equality, said that women constituted 40 per cent of members of the national Government, 12 per cent of parliamentarians, 43 per cent of officials at the Court of Justice, 23 per cent of judges and 45 per cent of teaching staff at Liechtenstein higher education institutions.

25. There were no plans to introduce legislation to increase the representation of women in politics. However, various other measures had been taken in pursuit of that goal, such as the introduction of a course that encouraged women to participate in politics and the conducting of a survey on the factors that determined why men and women decided whether or not to stand for office. Regional projects such as "Women Decide", which was run in conjunction with neighbouring regions in Austria and Switzerland, provided information and support, carried out awareness-raising activities and encouraged women of all ages to strive for political office and positions of leadership.

26. **Mr. Risch** (Liechtenstein) said that the Government had introduced many measures to promote tolerance and understanding among different ethnic groups. The Violence Protection Commission worked to combat violence in the public sphere and also religious and ideological extremism. From 2010 to 2015, the Commission had successfully implemented a raft of measures to combat right-wing extremism, including the launching of the campaign "Standing Up to Right-Wing Violence". As part of the Government project "Strength through Diversity", two conferences on integration had been held in 2011 and 2012. Furthermore, an expert group on right-wing extremism, reconstituted as the expert group on extremism in 2016, served as a contact point and counselling service for anyone who had come into contact with extremism in any form.

27. The promotion of mutual understanding and the tackling of xenophobia formed an integral part of the school curriculum. Children in secondary schools were taught about different religions and cultures. Partly as a result of the measures outlined, racial discrimination and intolerance were currently not a problem in Liechtenstein society.

28. **Ms. Kranz** (Liechtenstein) said that the school system played an important role in integrating non-nationals into society and promoting tolerance and understanding between the native and the immigrant populations. Education on tolerance formed an important part of the subject "life skills, religion and culture", which addressed all the major world religions and was taught in a way that allowed students of all ethnic backgrounds and religions to participate. Students were also taught the key principles of human rights and democracy and encouraged to act in accordance with them. Workshops on the prevention of bullying were also held for the benefit of teachers.

29. **Mr. Risch** (Liechtenstein) said that, under equality legislation, women who wore headscarves had the option of bringing a case to court if they experienced discrimination in the labour market. To date, no such cases had been brought before the courts.

30. **Mr. Frick** (Liechtenstein) said that the equality of all citizens before the law had been enshrined in the Constitution since 1921. In a recent judgment, the Constitutional Court had established that the principle of equal treatment applied also to non-nationals.

31. The Government had ratified a large number of international human rights conventions and had accepted the individual complaints procedures of some of them. The rights enshrined in such conventions could be invoked before the Constitutional Court. Since the accession of Liechtenstein to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the fundamental rights set out therein had regularly been invoked before the Constitutional Court.

32. Aside from article 283 of the Criminal Code, several other laws contained provisions that protected individuals against discrimination. For example, labour legislation expressly provided for the protection of the personality of employees, which was broadly defined as their gender, race, nationality and sexual orientation, among other characteristics. Provisions on non-discrimination were also contained in the Gender Equality Act and the Disability Equality Act.

33. **The Chair** said that she wished to know when the State party would ratify the Optional Protocol to the Covenant.

34. With regard to the survey on political participation mentioned earlier in the discussion, she asked what obstacles prevented women from standing for political office and what steps the Government was taking to address those obstacles.

35. **Mr. Windfuhr** (Country Task Force), noting that cases of discrimination against women wearing headscarves had been mentioned in a report issued by the European Commission against Racism and Intolerance, said that he wished to hear the State party's reaction to that report.

36. In view of the fact that the State party currently enjoyed a budgetary surplus, he asked whether the Government would consider increasing its official development assistance to 0.7 per cent of GNI.

37. Although the Committee welcomed the many steps taken by the State party to tackle tax evasion, he wished to know whether the numerous foundations that existed in

Liechtenstein enabled certain individuals and corporations to pay less tax. How did the delegation view the foundation model in relation to the discussion on tax evasion?

38. **Mr. Abdel-Moneim** said that he wished to know what the State party meant by the phrase "minimum available resources", which appeared in the heading of paragraph 11 of the replies to the list of issues. Was it a misprint?

39. He asked the delegation to indicate the extent to which the 17 double-taxation agreements and the 27 tax information exchange agreements mentioned in the opening statement were mandatory for banks and how far banks complied with those agreements.

40. **Mr. Uprimny** said that he would like the delegation to indicate whether domestic legislation required the State to provide reasonable accommodation to persons with disabilities. If no such requirements existed, he wished to know whether the State party would consider remedying the situation.

41. He asked why the State party did not possess data disaggregated by disability, when such data would enable it to determine whether persons with disabilities faced discrimination.

42. **The Chair** said that she wished to know whether the mandate of the Liechtenstein Human Rights Association included economic, social and cultural rights.

43. **Ms. Shin** said that she wished to know whether a link existed between the underrepresentation of women in politics and the expectations surrounding the role played by women in family life and childcare.

44. **Mr. Frick** (Liechtenstein) said that the taxation agreements mentioned by Mr. Abdel-Moneim were mandatory for all individuals, banks, institutions and corporations.

45. Foundations were an instrument of civil law and did not necessarily facilitate tax evasion. As domestic law required the beneficial owners of foundations to be identified, the taxes that such owners paid were subject to scrutiny.

46. Following their assessments of the Government's compliance with the recommendations issued by the Financial Action Task Force, the International Monetary Fund and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) had concluded that Liechtenstein adhered to high standards in its efforts to tackle money-laundering and the financing of terrorism. Liechtenstein had been an active member of the MONEYVAL Committee for many years and, although not a member of the European Union, it implemented all the financial sanctions that the European Union had established.

47. It was up to the parliament to establish the percentage of GNI allocated to official development assistance. Although budget cuts had made it necessary to reduce the level of assistance, spending had been increased in other areas, such as projects to combat climate change.

48. **Mr. Hasler** (Liechtenstein) said that, owing to reductions in spending made necessary by the financial crisis, the Government had been reluctant to take on additional burdens and had not ratified the Optional Protocol to the Covenant for that reason.

49. The survey on the reasons why men and women did or not decide to stand for political office had found that women were reluctant to do so because they had a negative view of politics in general and did not wish to be exposed to the public gaze or participate in public arguments.

50. **Ms. Kranz** (Liechtenstein) said that the Government was keenly aware of the fact that women were underrepresented in the parliament. To address that problem, training in the area of political participation had been made available to women and the Office of Education had established plans to provide State-funded care for young children.

51. **Mr. Hasler** (Liechtenstein), referring to the issue of discrimination against women wearing headscarves, said that no complaints of such discrimination had been brought before the courts. The Office for Foreign Affairs had held discussions with NGOs,

including organizations for non-nationals and Muslim women, on eight occasions, during which no mention had ever been made of the issue of discrimination.

52. **Mr. Frick** (Liechtenstein) said that the mandate of the Liechtenstein Human Rights Association included economic, social and cultural rights.

53. **Mr. Hasler** (Liechtenstein) said that the lack of disaggregated data on persons with disabilities did not prevent the Government from knowing about their situation. The counselling centre established for persons with disabilities would inform the Government if it received any reports of discrimination against such persons.

54. **The Chair** said that, in view of the fact that the Government enjoyed a budgetary surplus, it was difficult to understand how a lack of resources could have prevented it from ratifying the Optional Protocol to the Covenant.

55. **Mr. Windfuhr**, noting that only 26.1 per cent of women were in full-time employment, said that he wished to know how the Office of Equal Opportunity monitored employment patterns and what measures were being taken to address the question of gender equality in the labour market. He wondered to what extent discrepancies in employment statistics for men and women were related to the provision of integrated childcare services.

56. The delegation had provided data disaggregated by gender and age but not by disability and ethnic origin; yet such data would make it possible to determine whether members of ethnic minorities and persons with disabilities faced discrimination in the labour market. He wished to know what measures had been taken to support the participation of persons with disabilities in the workplace and whether the Government would consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

57. The gender pay gap had been reduced from 20 per cent in 2006 to 16.5 per cent and he commended the measures taken to close the gap, such as the introduction of an annual Equal Pay Day and the adoption of the Gender Equality Act. However, he failed to understand the statement in paragraph 30 of the replies to the list of issues that 56 per cent of the pay gap could be explained by objective factors.

58. According to a report by the European Commission against Racism and Intolerance, there had been cases in the construction sector in which a bonus had been paid to all employees except those who had not mastered the German language. He asked what results had emerged from the research undertaken by the tripartite commission established to observe the labour market.

59. He commended the revision of the Gender Equality Act to expand the burden of proof on employers to include allegations of sexual harassment. He would be interested to know of other areas of employment in which women were exposed to discrimination.

60. He noted that the wage difference between Liechtenstein nationals and foreigners had fallen to 7.9 per cent in 2014. However, the wages of cross-border commuters had exceeded those of Liechtenstein residents for the first time in 2014.

61. He welcomed the repeal of the Civil Servants Act and its replacement by the State Employees Act, under which civil servants were permitted to strike.

62. Article 49 (b) of the Foreigners Act allowed foreigners' residence permits to be revoked if they were permanently and substantially dependent on social assistance. He noted that, under the bill to amend the Act, persons residing in the State party for more than 15 years could not have their permit revoked, even if they were dependent on social assistance. However, if their period of residence was less than 15 years and they had received more than SwF 75,000 in social assistance, their permit could be revoked. He pointed out that, according to the Committee's general comment No. 19, all persons with special needs, regardless of their status, were entitled to social assistance.

63. While the State party's average per capita income was very high, there was nonetheless an 11 per cent ratio of low-income households. He would be interested to know what poverty assessment procedures were in place and how the problem was addressed.

The meeting was suspended at 4.25 p.m. and resumed at 4.35 p.m.

64. **Mr. Frick** (Liechtenstein) said that the Office for Foreign Affairs, which was responsible for processing the ratification of international human rights treaties, had only 15 employees and hence a very heavy workload. Liechtenstein hoped to ratify the Convention on the Rights of Persons with Disabilities within the next two years.

65. **Mr. Batliner** (Liechtenstein) said that it was difficult to answer the question about the high levels of part-time work by women, since no data on the subject were available. Liechtenstein was quite a rural country, in which traditional family ideas prevailed and women felt that they bore responsibility for family welfare. Another possible explanation was the number of weekly working hours required by most contracts, namely between 42 and 45 hours. The Government was, moreover, aware of the fact that inadequate day-care facilities impeded the full-time employment of women in some cases and was endeavouring to address the problem. In recent years, large enterprises and financial service providers had begun to provide private day-care facilities, thereby enabling both parents to work. A working group that had been established in late 2016 to promote the reconciliation of family life and employment also focused on the provision of childcare facilities. A total of 1,253 children currently benefited from such services and only 11 were still awaiting access to a facility.

66. The part-time employment of women was one of the factors conducive to the gender wage gap. It was a vicious circle, because women who were in part-time employment or who had been absent for a significant length of time on maternity leave were unlikely to achieve promotion and higher wages.

67. The tripartite commission was tasked with monitoring sectors for which there was no generally applicable contract. As the construction sector did not belong to that category, it was not monitored. Minimum wages under generally applicable contracts could be 10 per cent below the normal minimum wage if employees were unable to perform their duties satisfactorily for any reason, such as disability or an inadequate command of the German language.

68. **Mr. Risch** (Liechtenstein) said that in 2010, according to family statistical data, one person had worked full-time and one part-time in two thirds of all households, whereas, according to the latest data, one person worked full-time and one part-time in only one third of all households.

69. **Mr. Frick** (Liechtenstein) said that the new Government attached great importance to the goal of ensuring that every family was able to choose whether both partners would work on a full-time or part-time basis.

70. **The Chair** said that States parties were not required to ensure that all persons could work on a full-time basis. However, proactive State support, such as the provision of day-care facilities for women, was required in order to offer both women and men a genuine choice.

71. **Ms. Walch** (Liechtenstein) said that all residents, whether citizens or foreigners, could obtain social assistance if they met the requirements. The draft amended version of the Foreigners Act contained a new paragraph in article 49, according to which a residence permit could not be revoked on the grounds of permanent and substantial dependence on social assistance if the person concerned had resided in the country for more than 15 years without interruption. The Migration and Passport Office, which administered the Act, investigated the grounds for revocation of a permit on a case-by-case basis, taking into account the courts' jurisprudence. Foreigners could obtain social assistance if necessary, but they were encouraged to return to the labour market and to become more independent. The amended version of the Act deleted article 69 (2) (e), which required the Office of Social Services to notify the Migration and Passport Office if a foreigner had received more than SwF 75,000 in social assistance.

72. **Mr. Windfuhr** said that the reasons for revoking the residence permit of a person who had been resident in the State party for less than 15 years and received social assistance were still unclear. Loss of residency could prove particularly difficult for persons with disabilities or for refugees and asylum seekers. He also wished to know whether access to social assistance was contingent on language tests.

73. **Ms. Walch** (Liechtenstein) said that the residence permit of a refugee or a person granted residence under the country's recently amended Asylum Act would not be revoked unless that person lost his or her refugee status for providing false information. Article 48 of the Foreigners Act also stated that a residence permit could be revoked in the case of persons who were unwilling to respect law and order, or persons who persistently failed to meet the conditions laid down in their integration agreement. Persons who had obtained a work permit but remained deliberately unemployed for a lengthy period might also have their residence permit revoked. The same applied to persons who received substantial social assistance for an extended period and failed to take any steps to end their reliance on such assistance.

74. **Mr. Risch** (Liechtenstein) said that, when employees were absent from work for three months, the seriousness of their disability was assessed in order to assist them in returning to work, finding alternative employment or attending a vocational training course for a different category of employment. They were also offered counselling, access to protected workplaces or financial assistance for freelance work. If they were unable to return to work, they could apply for an invalidity pension. If they returned to work but were impeded by a disability, they could apply for a wage subsidy.

75. There were 13 private day-care institutions in the country, 10 of which received State subsidies. A working group established by the Government was currently seeking to provide financial assistance to all of them. Low-income families who were unable to pay day-care centre fees could also obtain financial assistance. There were official regulations on the quality of the institutional care provided.

76. **Mr. Dasgupta** noted that, according to the report, the gender pay gap was only 3.4 per cent among employees aged between 20 and 24 but progressively increased until it reached 26.5 per cent among employees aged between 55 and 59. He asked whether the State party had looked into the possibility of reducing the pay gap by introducing flexible working hours and enabling women to use communication technology to work from home, for instance in the banking and financial sectors.

77. The percentage of women in the judicial sector was quite high, at 44 per cent, but there were very few women judges. There thus seemed to be a barrier to professional promotion, or what might be called a glass ceiling.

78. **The Chair** said that men, too, should be given the option of flexible working hours and home-based work.

79. **Mr. Batliner** (Liechtenstein) said that the labour legislation permitted all forms of work, but it was necessary for employers and employees to reach an agreement on such options. Very few people worked from home and there was certainly a glass ceiling for part-time workers, the majority of whom were women.

80. **Mr. Atangana** (Country Task Force) noted that, according to the report, the State party did not plan to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and he wondered why.

81. The Committee had requested updated data on domestic violence and the prosecution of perpetrators but had not received additional information. The report contained a table providing figures for police interventions in cases of domestic violence but omitted to mention outcomes. He asked whether perpetrators of domestic violence had been prosecuted and, if so, what penalties had been imposed.

82. Foreigners were required, inter alia, to provide evidence of German language skills in order to qualify for family reunification, but, according to the State party's reply to the list of issues, no changes were currently planned to the legislation on family reunification. He urged the State party to reconsider that position.

83. He asked what measures were being taken to assist needy persons who were denied access to benefits such as low-income family allowances.

84. The Committee had enquired about housing for non-citizens and the State party had replied that there was sufficient private housing and a relatively high number of vacant housing units. However, given the high cost of private housing, he wished to know whether

action was taken to alleviate the situation of foreigners and needy citizens who were unable to pay the required rent. He asked whether they had access to social housing.

85. He noted that action to address the risks of tobacco, alcohol and drug consumption among minors had led to a decline in the consumption of addictive substances. However, a certain amount of tobacco and intravenous drug consumption persisted. He asked whether specific measures were being taken to prevent renewed substance abuse by minors who had abandoned or reduced their consumption.

86. As there was only one hospital in the State party, he would like to know what arrangements were made for the medical care of persons not living in its vicinity. He asked whether low-income groups could afford compulsory health insurance. He also wished to know whether patients suffering from cancer, pulmonary vascular disease and other high-risk diseases had access to the requisite care from medical specialists.

The meeting was suspended at 5.25 p.m. and resumed at 5.30 p.m.

87. **Mr. Hasler** (Liechtenstein) said that he was unable to provide specific data on court sentences handed down for domestic violence. The authorities were looking into the matter and were considering the possibility of ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence

88. The police were required to report all suspected cases of violent crime to the Office of the Public Prosecutor, which opened an investigation and initiated a criminal prosecution, where appropriate. In 2015, the Office had registered 203 violent crimes against 183 persons, 76 of whom were female. The police had intervened in 19 cases of domestic violence and had reported all of them to the Office, which would compile statistics on such cases in the future.

89. In 2015, a total of 21 investigative or preliminary proceedings on physical violence had been conducted at the Court of Justice, of which 8 had been discontinued, and 20 criminal proceedings had been conducted before the sentencing court. In addition, eight investigative or preliminary proceedings on offences against sexual self-determination had been conducted at the Court of Justice, of which three had been discontinued. However, he was unable to provide statistics on the outcome of the proceedings.

90. With regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the administration's resources were strained and it tried to prioritize the most relevant treaties that had been signed or ratified by other European countries.

91. **Ms. Walch** (Liechtenstein) said that no amendments to the Foreigners Act concerning family reunification were currently contemplated. The existing provisions were compatible with the country's international obligations, and the right to family reunification was guaranteed. She drew attention in that connection to the details on integration measures contained in paragraphs 38 and 39 of the replies to the list of issues. In 2016, a total of SwF 200,000 had been budgeted for integration, including SwF 110,000 for language courses and SwF 90,000 for integration projects.

92. The draft amended version of the Foreigners Act contained a new paragraph 3 (a) in article 27, providing for an exception to the requirements to be met in order to obtain a permanent residence permit. According to article 42 (2) (c), foreigners who, owing to old age or their state of health, could not be expected to fulfil the obligations of an integration agreement could be relieved of the requirement to sign an agreement. As a result, they were not required to provide evidence of a successful civics examination or to possess certain German language skills.

93. Every foreigner had the right to family reunification, subject to article 33 of the Foreigners Act. For the purposes of the Act, a family included the spouse and joint unmarried children under the age of 18 years, and also adopted and foster children. Most people who had received a residence permit in recent years had come to Liechtenstein as a result of family reunification. She drew attention in that connection to the details contained in paragraph 41 of the replies to the list of issues. The draft amended version of the Act changed the provision governing the period of validity of a child's permit received by

means of family reunification. The period would henceforth correspond to that of the parent from whom the child had derived the right to reside.

94. **Mr. Risch** (Liechtenstein) said that the housing market was entirely private and there was no social housing. However, housing subsidies were provided for low-income persons, persons with disabilities and older persons who were unable to pay rent. Such persons could also request assistance from the Office of Social Services in finding an apartment. Persons with drug abuse issues or other major personal problems frequently required assistance and the Office occasionally paid the rent for them.

95. Individual and collective measures had been adopted to combat substance abuse. They included a no smoking campaign and a special programme for persons attending vocational training courses, who could win a prize if they abandoned nicotine consumption. Persons with drug problems could receive counselling services and obtain free medical assistance.

96. Single-parent families received financial subsidies. Counselling, training programmes and subsidies were also available for unemployed people, including persons with disabilities.

97. **Mr. Frick** (Liechtenstein) said that the existence of only one public hospital was not a problem, because Liechtenstein cooperated with neighbouring Swiss cantons and with Austria to ensure access to hospitals throughout the region. At least three or four hospitals could be reached by car in just 20 minutes. There were also some private clinics in Liechtenstein and patients had access to medical specialists in all diseases. Life expectancy was very high: 81 years for men and 83.2 years for women. Everyone, including low-income groups, had access to health care, which was subsidized by the State.

98. **Ms. Walch** (Liechtenstein), referring to recent case law on family reunification, said that in one case a family member had been unable to acquire basic German language skills. An expert opinion on the person's ability to learn a new language had been sought. The expert had concluded that the person's old age and educational background constituted an impediment and the person had therefore been exempted from the need to fulfil the language requirement.

The meeting rose at 5.50 p.m.

United Nations E/C.12/2017/SR.25

Economic and Social Council

Distr.: General
16 June 2017

Original: English

Committee on Economic, Social and Cultural Rights
Sixty-first session

Summary record (partial)* of the 25th meeting
Held at the Palais Wilson, Geneva, on Thursday, 8 June 2017, at 10 a.m.

Chair: Ms. Bras Gomes

Contents

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined second and third periodic reports of Liechtenstein (*continued*)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@unog.ch).

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Please recycle

The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined second and third periodic reports of Liechtenstein (*continued*) (E/C.12/LIE/2-3; E/C.12/LIE/Q/2-3 and Add.1)

1. *At the invitation of the Chair, the delegation of Liechtenstein took places at the Committee table.*

2. **Mr. Abashidze** (Country Task Force) said that he would appreciate the delegation's comments on why neither the Constitution nor any of the relevant laws explicitly recognized the right to education. He wished to know why Liechtenstein was not a Member State of the United Nations Educational, Scientific and Cultural Organization (UNESCO). He also wished to know what educational improvements the State party believed were necessary, in view of its high opinion of its education system, and what measures were being taken to help both young children and parents whose mother tongue was not German. Regarding paragraph 44 of the replies to the list of issues, it would be helpful to know who was eligible for the German as a Second Language intensive course, what the enrolment procedure was, whether the course was free of charge, how many hours were devoted to it, whether the course completion certificate was useful and why there were so few students enrolled in the course. What practical conclusions had been drawn from the data contained in tables 16 to 18 in the replies to the list of issues?

3. Lastly, he asked why, if freedom of religion was guaranteed, there was a lack of appropriate premises for the religious and cultural activities of the Muslim population.

4. **Ms. Kranz** (Liechtenstein) said that the Government recognized the importance of early childhood education and had a long-standing interest in how language skills could be fostered in children before kindergarten. Thus, a community-level early language acquisition programme had been launched in 2012 to develop and coordinate activities for children under 4 years of age. Under the programme, parents learned how to combine language learning with games. Other measures included the early detection both of learning disabilities and of particular talents with a view to providing tailored services. Specialized support was available for children with any type of disability. There were also specialized schools, but teachers were trained to integrate children with disabilities into the classroom if parents chose to send their child to a mainstream school.

5. A special class for newly arrived children who did not speak German had been in place for over two decades. The country's size made it possible to open such classes very quickly when the need arose. The classes offered 34 hours of instruction per week for up to 12 children aged 8 to 18 years, who typically spent a year in the programme. The objective was to get the students up to the basic user, or A1, level under the Common European Framework of Reference for Languages, so that they could follow regular instruction. There were currently 27 children enrolled. If a child still had problems after a year, continued support was provided in the regular classroom. Supplementary support could be provided for up to seven years and had been extended to the kindergarten level in 2008. Some 540 students currently benefited from the programme.

6. Figures on school performance could not be published owing to anonymity requirements. However, the language proficiency of all children enrolled in the intensive German language course was assessed in the fifth grade, in other words before children were streamed. Those who did not reach the independent user, or B1, level continued in the intensive course for at least a year, even if they otherwise performed well enough to be streamed into the track with the highest academic requirements. The general academic performance of children with a migrant background was assessed through national testing. A new education report was being designed to provide fuller statistics on such matters as progress made and the influence of a migrant background on academic performance. Further work would be done to incorporate a child's socioeconomic background and mother tongue into education statistics. The reality was that children with a migrant

background were more likely to be streamed into the track with the lowest requirements, but there were ample apprenticeship opportunities for less academically inclined students. Moreover, after each year, students had the opportunity to transfer to a higher track, either on merit or on the basis of an examination.

7. The State funded Islamic religious instruction at the primary level. Under the Native Language and Culture programme, Muslim and other minority children could take classes in their mother tongue, although there was no budget or oversight. Tolerance was a key component of the curriculum and, as part of human rights and democracy education, students were taught how to behave in accordance with the major principles in that domain.

8. **Mr. Hasler** (Liechtenstein) said that, given the country's limited human and financial resources, Liechtenstein was not considering becoming a member of any additional international organizations. In 2011, the Government had launched its "Strength through Diversity" integration policy, together with associated measures. Liechtenstein relied on immigration and aimed to enable all inhabitants to participate in social life. Accordingly, the Government had set up a working group on the integration of Muslims with a view to establishing dialogue and fostering mutual respect between the Muslim community and the rest of the population. Liechtenstein had one full-time imam.

9. **Mr. Frick** (Liechtenstein) said that the right to education could be inferred from article 16 of the Constitution, which established that education was universal and compulsory and State education free of charge. It should be noted that almost all children attended State schools, which were of a very high calibre.

10. **Ms. Walch** (Liechtenstein) said that, by law, the children of asylum seekers and unaccompanied minors were entitled to education services.

11. **Mr. Sadi** said that, on the one hand, the State party had an integration policy that could potentially serve as a model for other countries but, on the other hand, it also promoted minority languages and culture. It should be mindful that failing to integrate children into society through the school system could have dire consequences in the future.

12. **Mr. Windfuhr** (Country Task Force), noting that there was no public housing, asked how individuals who, for various reasons, were not ideal tenants obtained housing. He wished to know what the State party's position was on inclusive education.

13. **Mr. Azzagoua** (Country Task Force), speaking with reference to the language requirement in the context of family reunification, said that he wished to know what language learning assistance was available to spouses while they were still living abroad and whether the amendments to the Foreigners Act took into account the fact that learning German might take a considerable time or prove impossible for some, thereby prolonging the separation of families.

14. **The Chair** asked what body had taken over the functions of the Equal Opportunities Unit since its dissolution in 2016. Drawing the State party's attention to the Committee's general comment No. 20, she wished to know whether the State party might consider reviewing its anti-discrimination legislation to cover all prohibited grounds of discrimination.

15. **Mr. Dasgupta** (Country Rapporteur) asked whether the school curriculum dealt with the contributions of different civilizations and cultures or tended rather to be Eurocentric. He would appreciate confirmation that the Liechtenstein Human Rights Association did not have constitutional status and that its board was elected by the members.

16. **Mr. Abdel-Moneim**, referring to the taxation and information exchange agreements listed in paragraph 16 of the replies to the list of issues, asked to what extent banks complied with them in practice.

17. **Mr. Uprimny** said that he was not convinced by the State party's argument that the authorities would know of cases of discrimination against persons with disabilities, even in the absence of disaggregated data, simply because a complaints mechanism was in place. Discrimination was not necessarily overt, so people were often not aware that they were being discriminated against. Recalling that the provision of reasonable accommodation was

a cross-cutting issue, he would appreciate further details on what reasonable accommodations were made for persons with disabilities in areas other than housing.

The meeting was suspended at 10.55 a.m. and resumed at 11.05 a.m.

18. **Ms. Kranz** (Liechtenstein) said that the Government firmly believed that a knowledge of one's background strengthened the sense of identity and was essential for healthy development. That said, only one hour a week was devoted to classes on students' native cultures, compared to the 30 hours devoted to integration. Liechtenstein did not have any nationals fighting abroad or any radicalized individuals, because it integrated children and adults from the moment of their arrival in the country. The curriculum was not unduly focused on Europe and, as early as primary school, children were encouraged to look at what was happening beyond the borders of Liechtenstein. Projects on diversity took place at all schools, for instance to mark International Mother Language Day and the International Day of Commemoration in Memory of the Victims of the Holocaust.

19. Liechtenstein used the term "integration" rather than "inclusion" when it came to the education of children with disabilities. Fewer than 2 per cent of children were in special schools, while 2 to 3 per cent of students in regular schools received additional assistance. Integration was a lofty goal but was very difficult to achieve in practice. Nevertheless, the Office of Education promoted in-service training for all teachers and encouraged teachers and special educators to work together to better manage integrated classrooms. Assistance was available to children with disabilities even once they had completed compulsory education.

20. **Mr. Risch** (Liechtenstein) said that the Ministry for Social Affairs oversaw housing and had measures in place for persons who experienced difficulty obtaining access to housing or who had lost their homes. Since January 2017, the Equal Opportunities Unit had been subsumed into the Ministry, pursuant to a decision by the parliament.

21. **Ms. Walch** (Liechtenstein) said, with regard to family reunification, that the State funded German classes for spouses with a residence permit. Prior to a person's arrival in Liechtenstein, assistance consisted in providing information on potential language schools. Basic knowledge of German could be demonstrated in various ways, namely through an A1 level certificate, proof of at least three years' attendance at a German-speaking school or a conversation with an official of the Migration and Passport Office. The language requirement was not absolute and could be waived if an expert certified that a person's circumstances made it impossible to learn German. There was no need to change the rules, because no permit had ever been denied on language grounds. Moreover, it typically took an overseas spouse six to eight months to reach the required level, which was not an unreasonable period of time for couples to be separated. Asylum seekers were permitted to work in Liechtenstein from the day that they submitted their application and they enjoyed all the safeguards contained in the Labour Act.

22. **Mr. Frick** (Liechtenstein) said that the board of the Liechtenstein Human Rights Association was elected by the Association's members and included, among others, a former judge of the European Court of Human Rights, a former ambassador to the United Nations and a member of the Muslim community.

23. Double taxation and information exchange agreements were binding on individuals and legal entities, and the national tax authority had the power to impose penalties. Such agreements became law as soon as they were approved by the parliament, so it was not necessary to adopt additional legislation to incorporate them into the legal order.

24. **Mr. Hasler** (Liechtenstein) said that there was one mosque in Liechtenstein, which was not unreasonable, given the size of the Muslim community. Dialogue was ongoing between the authorities and the community. The Government had commissioned a study of life as a Muslim in Liechtenstein, the findings of which would reinvigorate the discussion on integration. Although radicalization was not a widespread problem in the country, a working group had been set up to address the matter. Statistics were not kept on persons with disabilities, but various institutions monitored their situation. With a view to integrating persons with disabilities into the labour market, the Disability Insurance Act and other laws provided for a range of measures, including incentives for employers.

25. **Mr. Dasgupta** said that he welcomed the State party's openness to dialogue and commended the steps that it had taken to enhance the entire population's enjoyment of Covenant rights. The costs involved in acceding to the Optional Protocol to the Covenant were negligible, however. He would therefore strongly recommend that the State party ratify the instrument.

26. **Mr. Frick** (Liechtenstein) said that Liechtenstein appreciated the Committee's insight on areas for improvement and looked forward to receiving its concluding observations.

27. **The Chair** said that she was pleased to see that the State party had taken into account the Committee's previous concluding observations and trusted that it would do so again in the future.

The discussion covered in the summary record ended at 11.30 a.m.

United Nations E/C.12/2017/SR.26

Economic and Social Council

Distr.: General
21 June 2017

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Committee on Economic, Social and Cultural Rights

Sixty-first session

Summary record of the 26th meeting
Held at the Palais Wilson, Geneva, on Thursday, 8 June 2017, at 3 p.m.

Chair: Ms. Bras Gomes

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fifth periodic report of Sri Lanka

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The meeting was called to order at 3.10 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fifth periodic report of Sri Lanka (E/C.12/LKA/5, E/C.12/LKA/Q/5 and Add.1)

1. *At the invitation of the Chair, the delegation of Sri Lanka took places at the Committee table.*

2. **Mr. Aryasingha** (Sri Lanka), introducing his country's fifth periodic report (E/C.12/LKA/5), said that relevant ministries and agencies had taken part in preparing the report. Civil society organizations and the Human Rights Commission of Sri Lanka had also been involved.

3. The presidential election of 2015 had been a watershed moment in Sri Lanka and had helped to build the foundation needed for stability and the advancement of human rights, democracy and the rule of law. A new Constitution was being drafted by a steering committee under the Prime Minister and would be finalized by the end of 2017. It would address the legal and policy framework for implementation of the Covenant and include provisions recommended by the Subcommittee on Fundamental Rights of the Constitutional Assembly. Economic, social and cultural rights were safeguarded by policies, administrative regulations and institutional mechanisms, as well as access to legal remedies through the courts.

4. Since 2010, Sri Lanka had increased checks and balances in government, strengthened the capacity and autonomy of the national Human Rights Commission and finalized a new National Human Rights Action Plan, which contained a chapter on economic, social and cultural rights. The Government had developed a policy framework and national action plan to address sexual and gender-based violence and a national policy on child protection and had taken steps to increase investment in economic development to benefit rural women. A comprehensive National Migration Health Policy had been developed in 2013 and considerable progress had been made in the delivery of health care. The Office of National Unity and Reconciliation was implementing programmes to foster religious harmony and strengthen inter-faith dialogue. Measures had also been taken to protect the rights of the Adivasi (Veddah) community.

5. The Right to Information Act had been enacted in 2016, and over 1,500 requests for information had been received in the first month following its entry into force. The Act was intended to foster a culture of transparency and accountability. The Government was committed to working with the international community on issues relating to reconciliation, justice and reparations. It was conscious of the need to consult and involve the public if reform efforts were to be successful and sustainable. It also recognized the need for enhanced inter-agency cooperation and coordination with stakeholders, including civil society; increased coordination between central and provincial authorities; and the collection of credible disaggregated data.

6. **Mr. Kedzia** (Country Rapporteur) said that the Committee welcomed the State party's implementation of recommendations made in the framework of the national reconciliation process. It noted, however, that economic, social and cultural rights had been largely excluded from the work of the Lessons Learnt and Reconciliation Commission. It was of concern that the current Constitution referred to economic, social and cultural rights as policy directives and did not confer or impose any legal rights or obligations in respect of them; moreover, such rights were not enforceable in any court. Under article 16, the constitutionality of certain discriminatory laws could not be subject to judicial review. Article 28 provided that the enjoyment of rights and freedoms was inseparable from the performance of duties and obligations. Did that mean that individuals could be deprived of their rights for failing to fulfil their constitutional duties?

7. He wished to know what status the Covenant would have under the new Constitution and whether it would be directly applicable by the judiciary. He would also

like to know whether it would be possible to use public interest litigation to advance economic, social and cultural rights. In addition, he would like to hear whether the Constitution would provide a legal framework for the work of the Human Rights Commission of Sri Lanka, including institutional and procedural guarantees of its independence, adequate definition of its powers and provision of sufficient financial, physical and human resources. He also wished to know whether the Commission would be given the power to protect economic, social and cultural rights, which appeared to be excluded from its present mandate. In addition, he wondered whether the State party planned to ratify the Optional Protocol to the Covenant.

8. It would be useful to know how the Government planned to ensure that the National Human Rights Action Plan for the period 2017-2021 would, unlike the previous plan, in fact be implemented. The Committee had been informed that the Government had removed provisions from the Plan calling for the decriminalization of sex work and consensual sexual activity between adults of the same gender. He would appreciate a comment from the delegation in that regard.

9. He was curious as to whether the Samurdhi poverty alleviation programme had a human rights-based approach and to what extent it addressed economic, social and cultural rights. The Committee had been informed that State funding for social protection programmes and for education and health had been reduced sharply, and he would appreciate information from the delegation about those cuts. In particular, he wished to know whether the Government had taken into account the Committee's guidance on retrogressive austerity measures, which were compatible with the Covenant only if they were temporary, proportional, non-discriminatory and protected disadvantaged and marginalized persons. He also wished to know what measures were being taken to ensure that employees in free trade zones could fully enjoy their economic and social rights.

10. The current legal framework for countering discrimination appeared to suffer from significant shortcomings. He wondered whether the State party planned to expand the anti-discrimination provisions of the Constitution to prohibit discrimination on the basis of, for example, national or social origin, sexual orientation and gender identity and adopt comprehensive anti-discrimination legislation that would address, inter alia, caste-based discrimination. It would be helpful to know whether the State party intended to ratify the 1951 Convention relating to the Status of Refugees and whether the Government planned to establish a legal framework for the protection of refugees, asylum seekers and migrants. Lastly, he would welcome information about any planned legislative measures to eliminate legal and de facto discrimination against women and about the implementation of the 2016 law establishing a 25 per cent quota for women in local government bodies.

11. **Ms. Shin**, noting that de facto discrimination against women included rape, domestic violence, female genital mutilation and sexual harassment, asked what measures the Government was taking to address such discrimination and to strengthen the Ministry of Women's Affairs and the National Committee on Women. She applauded the State party's decision to establish an independent national commission on women, which she hoped would be empowered to receive complaints from women, and would welcome information on the time frame for its establishment.

12. **Mr. Dasgupta** said that little headway appeared to have been made in implementing the Official Language Policy, although it had been in place for over 16 years. He wondered why it was that government institutions were still unable to provide services in all official languages if government officials were required to speak all three languages. The policy was an excellent one, but failure to implement it was tantamount to discrimination against speakers of certain languages.

The meeting was suspended at 3.45 p.m. and resumed at 3.50 p.m.

13. **Mr. Pulle** (Sri Lanka) said that the current Constitution contained specific chapters on fundamental rights and language rights and established the responsibility of the State to pursue objectives related to the Covenant, including the achievement of an adequate standard of living for all persons and universal access to education. Under chapter 6 of the Constitution, economic, social and cultural rights were recognized as "directive principles of state policy" which guided the enactment of laws and the governance of the country.

Both the Supreme Court and the Court of Appeal had made reference to those directive principles in their judgments, thus recognizing rights enshrined in the Covenant. For example, in the case of *Seneviratne and another v. University Grants Commission* of 1980, the Supreme Court had judged that due recognition must be given to the directive principles of State policy.

14. Other judgments had invoked article 12.1, which stipulated that all persons were entitled to equal protection under the law, to uphold the right to education, the right to strike and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, among other rights. Some of those judgments had also explicitly referenced the Covenant. The judicial interpretation of article 126 of the Constitution had evolved to permit public interest litigation groups to bring rights-related cases before the courts. A mechanism known as "epistolary jurisdiction" also permitted any individual to write to the Chief Justice regarding human rights violations in order for the case to be brought before the Supreme Court.

15. **Mr. Gunatilleke** (Sri Lanka) said that there had been a vibrant debate in the context of constitutional reform on the justiciability of economic, social and cultural rights. The Public Representations Committee on Constitutional Reform, on the basis of over 3,000 submissions received from the general public on the issue, had recommended the enumeration of specific economic, social and cultural rights in the Constitution and the provision of judicial remedies for violations of those rights. The Subcommittee on Fundamental Rights, which had been established to formulate recommendations in relation to constitutional reform, had also recommended that the rights under the Covenant should be justiciable. The Steering Committee of the Constitutional Assembly was currently considering the recommendations.

16. As part of discussions on the new Constitution, the Public Representations Committee and the Subcommittee on Fundamental Rights had both specifically recommended that discrimination on the basis of gender identity and sexual orientation should be prohibited. Article 12.1 of the current Constitution guaranteed equality and equal protection of the law without exception. Article 12.2, which listed prohibited forms of discrimination, was non-exhaustive and thus implicitly prohibited discrimination on the basis of sexual orientation or gender identity. Unfortunately, however, victims of such discrimination were often reluctant to file complaints with law enforcement bodies. Other remedies available to them included the lodging of complaints with the National Human Rights Commission and invoking the fundamental rights jurisdiction of the Supreme Court.

17. The report produced by the Subcommittee on Fundamental Rights recommended that any law inconsistent with the fundamental rights chapter of the new Constitution, which would presumably explicitly prohibit discrimination on the basis of sexual orientation and gender identity, would be declared void. Therefore, once the new Constitution was adopted, any provisions of the Criminal Code that were deemed a violation of human rights would be subject to judicial review. A new policy on reconciliation had also recently been approved which included a commitment to amend or repeal any discriminatory laws.

18. **Ms. Manatunga** (Sri Lanka) said that the implementation of the National Human Rights Action Plan would be overseen by a high-level interministerial mechanism that would provide for consultation with all stakeholders, including international organizations and civil society. Reviews of the implementation of the Action Plan were scheduled in the short and medium terms. The final design of the mechanism would be based on the policy decisions of the Cabinet. The Action Plan was currently being translated into all official languages, as the Government was committed to making it accessible to all communities.

19. **Ms. Sumanasekara** (Sri Lanka) said that the number of seats held by women in local government bodies was increasing as a result of the 25 per cent quota system. The Government was committed to establishing a national commission on women. A draft bill for that purpose was expected to be submitted to Parliament in the near future. Gender-based violence was a key area of concern for the Ministry of Women and Child Affairs and the National Committee on Women. The National Action Plan to Address Sexual and Gender-based Violence had been launched in 2016. Discussions had been held recently

with civil society on how to implement and monitor the Action Plan. Eight government ministries would be involved in implementing it.

20. Training modules on violence against women had been developed and incorporated into police training programmes. The Prevention of Domestic Violence Action Plan also included awareness-raising measures and training for law enforcement bodies and members of the judiciary. There were a total of six women's shelters across the country, the majority of which were located in the Northern and Eastern provinces. Civil society organizations were responsible for managing two of the shelters. Amendments to the Prevention of Domestic Violence Act had been proposed in order to improve its effectiveness and would be submitted to Parliament for approval. The number of reported cases of violence against women was increasing, despite the Government's efforts. The Government had established a database and was collecting information on violence against women, including cases of cyberviolence.

21. Efforts were also being made to amend Muslim Personal Law in order to remove its discriminatory provisions, particularly in relation to marriage. Plans had been drawn up to hold public consultations on the issue and to discuss the matter with Muslim communities. A national plan had also been developed with a view to assisting female heads of household, particularly those who had been affected by the war. Consultations had been held with civil society on that plan. In addition, sexual harassment committees had been established in workplaces, and approval had recently been received to set up gender mainstreaming committees in the main government ministries.

22. **Ms. Manatunga** (Sri Lanka) said that the implementation of the Official Language Policy had been difficult owing to the protracted internal conflict. However, both administrative and constitutional measures had been taken to ensure its implementation. Articles 18, 19 and 22 of the Constitution recognized both Sinhala and Tamil as official national languages of Sri Lanka. A recruitment drive had been launched in the police force with a view to employing male and female officers conversant in Tamil. A number of individuals had successfully challenged the non-implementation of the Official Language Policy before the courts and redress had been given in such cases.

23. **Mr. Pulle** (Sri Lanka) said that in two recent cases individuals had appealed to the courts on the grounds that their language rights had been violated. In one case, the complainant had successfully petitioned the Supreme Court to have legal documentation, which was initially only available in Sinhala, translated into English. Another case was currently pending in which the complainant had demanded that the National Medicines Regulatory Authority ensure that the instructions on the packaging of medication were available in all official languages.

24. **Mr. Aryasingha** (Sri Lanka) noted that the European Commission had recently recognized the important steps taken by Sri Lanka to improve governance and enhance respect for human rights, including through the adoption of the 19th amendment to the Constitution, which had re-established the independence of key institutions, such as the national Human Rights Commission.

25. **Mr. Sadi** said that, while he welcomed the positive steps taken, the current situation in Sri Lanka did not appear to be as rosy as the delegation's statements suggested. He would like to know how the new Constitution would address the root causes of the conflict that had plagued the country for nearly 30 years. Regarding the status of the Covenant in domestic legislation, the State party's approach seemed to be at odds with the Committee's general comment No. 9 on the domestic application of the Covenant, which made it clear that the Covenant should either be incorporated outright into national legislation or be reflected faithfully therein.

26. **Ms. Shin** said that she wished to know when the State party planned to establish an independent national commission on women. Such a commission was urgently needed, as the national Human Rights Commission dealt only with public sector issues, whereas a large proportion of discrimination and violence against women occurred in the private sector.

27. **Mr. Uprimny** said that without an independent and impartial judiciary it was not possible to enforce economic, social or cultural rights. He recalled that the Human Rights Committee, in its concluding observations on the fifth periodic report of Sri Lanka to that body (CCPR/C/LKA/CO/5), had stressed the importance of enhancing the judiciary's independence and that the United Nations Special Rapporteur on the independence of judges and lawyers had also emphasized the need to strengthen the justice system and make it more accessible and accountable. He would like to know how the new Constitution would support the strengthening of the judiciary.

28. **Ms. Liebenberg** asked whether the State party intended to ratify the Optional Protocol to the Covenant.

29. **Mr. Dasgupta** said that he wished to know the number of cases in which officials had been denied promotions or otherwise sanctioned because of their inability to work in more than one official language.

30. **Mr. Kedzia** said that, from Mr. Pulle's remarks about the justiciability of Covenant rights, one might conclude that the situation in Sri Lanka in that regard was perfect. Yet other members of the delegation had alluded to controversy regarding the status of economic, social and cultural rights in the constitutional reform process. Could the delegation comment on that apparent contradiction? The National Human Rights Action Plan referred to the enshrinement in the Constitution of certain rights protected under the Covenant, such as the right to adequate housing. It did not, however, mention a series of other rights, including the right to safe and healthy working conditions or the right to form or join trade unions. He would appreciate a comment from the delegation on those omissions.

31. Supreme Court decisions could play a valuable role in upholding Covenant rights, and in many countries jurisprudence had paved the way for new rights-related legislation. But if the idea of enshrining economic, social and cultural rights in the Constitution remained controversial then it could be difficult to enshrine them in legislation. For example, the Supreme Court had appeared to be referring not to the Covenant but to the Universal Declaration of Human Rights when it had stated that the right to education had been acknowledged through article 12 of the Constitution, which established the right to equal protection of the law. However, article 29 of the Constitution stated that article 27 and chapter 4 did not confer or impose legal rights or obligations and the provisions were not enforceable in any court or tribunal. If that provision remained unchanged, rights holders would continue to lack the power to claim their rights.

32. **Mr. Aryasingha** (Sri Lanka) said his delegation was not suggesting that the situation with regard to the implementation of cultural, economic and social rights in his country was ideal. Many areas needed improving, and there were ongoing attempts to do that.

33. **Ms. Sumanasekara** (Sri Lanka) said that the Government aimed to have an independent national commission on women in place by the end of 2017.

34. **Mr. Wimalaweera** (Sri Lanka) said that the current Constitution recognized trade union rights and that two pieces of legislation were in place to uphold them. Trade Unions Ordinance No. 14 of 1935, as amended, protected the right of workers to participate in trade unions. In fact, Sri Lanka had around 2,000 registered unions. Industrial Disputes Act No. 56 of 1999 covered violations of the right to unionize. The Department of Labour monitored labour conditions in the country, and the National Labour Advisory Council had been established to resolve labour-related matters. His Government believed that the system in place for the protection of labour rights was adequate.

35. **Mr. Pulle** (Sri Lanka) said that the 19th amendment to the Constitution had strengthened safeguards for appointing judges. For example, the approval of the Constitutional Council was now required for naming judges to the Supreme Court, the Court of Appeal and some other judicial offices, such as that of the Attorney-General. The Supreme Court had recently had a Tamil-speaking Chief Justice and there had been other high-level judges who were of Tamil ethnicity. The many Supreme Court judgments recognizing the economic, social and cultural rights did in fact refer to the Covenant. In his

view, the current arrangement with regard to justiciability of Covenant rights was adequate, although of course there was always room for improvement.

36. **Mr. Zerbini Ribeiro Leão** (Country Task Force) said that he would like to know whether the series of measures to promote stable employment and decent work outlined in the State party's report had been successful. It would also be useful to know whether the quality of work available to women and young people, whose participation in the labour market remained low, had improved. Could the delegation provide statistics to illustrate the progress made? He would welcome further information on the measures the State party was taking to combat child labour in the formal and informal sectors. Had the measures mentioned in paragraph 114 of the periodic report been effective? Were there updated records regarding child labour in the formal sector?

37. It was not clear whether a minimum wage had been set for all employment sectors and whether those minimum levels were sufficient to enable workers and their families to enjoy an adequate standard of living. If so, could the State party provide corroborative data? He would also like specific information on progress in preventing and punishing sexual harassment in the workplace.

38. Paragraph 84 of the State party's report indicated that the Rataviruwo Foundation had been created to safeguard the economic, social and cultural rights of migrant workers living in Sri Lanka. He would like to know whether it had been effective in doing so. What challenges had been encountered and what had been the most notable successes? He understood that some migrants, in particular refugees and asylum seekers, were prohibited from working in Sri Lanka. Did the State party intend to lift that prohibition?

39. He wished to know whether the legal framework pertaining to the right to strike had changed and what the main challenges were in relation to that right and the right to form trade unions. Did workers, particularly in free trade zones, enjoy guarantees with regard to their rights and their freedom of activity? Lastly, it would be interesting to hear what challenges had been encountered in drawing up a universal social protection scheme, what positive results had been achieved to date and whether workers in the informal sector would be covered by the plan.

40. **Mr. Wimalaweera** (Sri Lanka) said that it was puzzling that women's rate of participation in the labour force remained low, at around 34 per cent, despite the country's low birth rate and high literacy rate. Measures to increase female participation were being developed, in the light of recommendations from studies conducted with support from the World Bank and other international organizations, including the International Labour Organization. Those measures included introducing more flexible labour legislation to allow women to work after 10 p.m., which would give them greater access to well-paid jobs in information technology and other industries. In addition, steps were being taken to promote female entrepreneurship, and awareness campaigns were being conducted to change cultural attitudes towards women's employment.

41. Surveys had shown that the percentage of children engaged in labour had dropped from 2.5 per cent in 1999 to 1 per cent in 2009, thanks to legislative amendments prohibiting the employment of children aged between 16 and 18 years in certain hazardous occupations and also to initiatives such as the Child Labour Free Zone, piloted in the district of Ratnapura.

42. The wages of private sector workers were established in accordance with the Wages Boards Ordinance or the Shop and Office Employees Act. The latter applied to white-collar workers and therefore did not provide for a minimum wage. Under the Wages Boards Ordinance, minimum wages for blue-collar workers were periodically reassessed by tripartite committees, composed of employers, trade union representatives and government officials, taking into account the economic situation in the country and in the industry in question. Act No. 3 of 2016 on the national minimum wage of workers had established a minimum wage floor that was applicable to all workers in Sri Lanka; the Government was taking steps to evaluate the impact of that Act. Workers' pay was also, in many cases, supplemented by additional benefits and protected by collective agreements between trade unions and employers' organizations.

43. The right to strike was guaranteed by the Trade Union Ordinance, which protected the right of trade unions to operate freely. The new Constitution would contain a specific section on trade union rights. Facilitation centres had been set up in five free trade zones to promote interaction between workers and trade union leaders. The Department of Labour had issued circulars and guidelines on the protection of trade union rights and ensured that any employer that discriminated against a worker for participating in trade union activities would be prosecuted.

44. The Employment Provident Fund was the country's largest pension scheme, catering for 80 per cent of the older population, with a total membership of between 2.6 million and 3 million persons. There were plans to introduce a system of payment by instalments to replace the Fund's current lump-sum payment system.

45. **Ms. Sumanasekara** (Sri Lanka) said that sexual harassment committees in workplaces had been reorganized in late 2016, based on guidelines issued by the National Human Rights Commission, and were now composed of seven members of staff from various departments of the organization concerned, including junior staff. Upon receipt of a complaint, the committee appointed one of its members to investigate the case. If the allegations were confirmed, the case was referred to the head of the organization, who imposed a sanction on the offender in accordance with the organization's internal regulations. As the committees had only been in operation for a few months, no data on cases dealt with were available.

46. The Government had drawn up a National Human Resources and Employment Policy in 2012, with a view to promoting women's participation in the labour market, especially the formal sector. The policy outlined a number of measures, such as setting up childcare facilities in workplaces and providing skills development training for women. The Government had set aside a budget of 20 million Sri Lankan rupees for the establishment of workplace day-care centres in 2017. A further 600 centres would be set up at plantations and other workplaces through an initiative supported by the World Bank.

47. **Mr. Pulle** (Sri Lanka) said that his country's commitment to eradicating sexual harassment in the workplace was reflected in a recent Supreme Court judgment in a case regarding the dismissal of a female teacher who had been harassed by the school principal. The Court had ruled that the teacher's rights had been violated and that she ought to be compensated and reinstated in her former position.

48. **Mr. Gunatilleke** (Sri Lanka) said that the Subcommittee on Fundamental Rights, a multiparty parliamentary body involved in drafting the new Constitution, had recommended expanding the existing provisions on labour and trade union rights to include explicit references to the right of all citizens to enjoy just and favourable conditions of work and to participate in trade union activities.

49. **Ms. Indraratne** (Sri Lanka) said that, in 2016, the unemployment rate had been 4.4 per cent and the number of employed persons had increased by 1.5 per cent to 7.948 billion, mainly due to the expansion of the industrial and service sectors. The agricultural sector, which was in decline, had accounted for 27 per cent of employment in 2016, while the industrial and service sectors had accounted for 26 per cent and 47 per cent of employment, respectively.

50. **Ms. Liebenberg** (Country Task Force), recalling the concerns expressed in paragraphs 15 and 25 of the Committee's previous concluding observations (E/C.12/LKA/CO/2-4), said that it was worrying that marital rape had not yet been criminalized and that the recommended legislative reforms to prevent early marriage and abolish patrilineal inheritance had not yet been carried out. She wished to know what steps would be taken to implement the Committee's recommendations in that regard.

51. In the light of reports of high levels of child abuse, a fragmented child protection system and poor implementation of child protection policies, she would like to know what measures would be taken to improve coordination between the various bodies responsible for child-related issues and when the national child protection policy for 2017-2027 and its five-year action plan would be adopted. She would also like to hear whether the

Government intended to repeal the provisions of the Criminal Code that prohibited same-sex relationships.

52. The State party had made commendable progress in combating extreme poverty; nevertheless, living standards remained low for much of the population and some regions and social groups remained particularly vulnerable to poverty, food insecurity and indebtedness. What steps would be taken to improve living standards throughout the country and to reduce social and geographical inequalities?

53. The Committee was concerned by reports that internally displaced persons, many of whom had not yet been resettled, faced numerous challenges, including poor living conditions and disputes over landownership. They were often resettled on land that was not suitable for agriculture and were more vulnerable to poverty and malnutrition as a result. She would like to know whether there were plans to enact legislation on land restitution to give legal effect to the national policy on durable solutions for persons affected by conflict-related displacement; whether the Government intended to establish an independent national land commission to oversee the implementation of an equitable land policy, as recommended by the Lessons Learnt and Reconciliation Commission; and what time frames were envisaged for the resettlement of the remaining internally displaced persons.

54. The Committee had been informed that military occupation, commercial activities conducted by the military and large-scale development projects had led to the dispossession and displacement of vulnerable communities and that, in many cases, the Land Acquisition Act had been violated and inadequate compensation had been provided. She would like to know what steps would be taken to expedite the demilitarization of land in the north and east of the country, to prevent the military from engaging in commercial activities and to strengthen the legal framework relating to development-related expropriation of land and evictions.

55. In the light of the significant decrease in the health budget that had reportedly taken place between 2016 and 2017 she wondered what long-term plans the Government had for the health sector. In particular, what steps would be taken to avoid a situation in which a poorly funded public system operated alongside a prohibitively expensive private system and what measures would be implemented to improve mental health services, given the prevalence of mental health problems? It would also be helpful to know whether the Government intended to develop a rights-based food policy and related legislation, with broad civil society participation, to address the problem of malnutrition, which, according to the World Food Programme, affected 5.2 million persons and 18 per cent of pregnant women.

56. Lastly, the Committee had noted with concern that abortion continued to be permitted only when a mother's health was at risk and would welcome information on any plans to amend abortion legislation, particularly with regard to cases of rape and incest, in order to protect the reproductive rights of women and girls. It would also be interested in hearing whether a comprehensive review of sexual and reproductive health services would be conducted to bring those services into line with its general comment No. 22 (2016) on the right to sexual and reproductive health.

57. **Mr. Uprimny** said that he would appreciate more information on diversity among the judiciary of the high courts. As he understood it, only one high-level judge, the Chief Justice of the Supreme Court, was of Tamil origin.

The meeting rose at 6 p.m.

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Committee on Economic, Social and Cultural Rights

Sixty-first session

Summary record of the twenty-seventh meeting
Held at the Palais Wilson, Geneva, on Friday, 9 June 2017, at 10 a.m.

Chair: Ms. Bras Gomes

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The meeting was called to order at 10.05.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fifth periodic report of Sri Lanka (*continued*) (E/C.12/LKA/5; E/C.12/LKA/Q/5 and Add.1)

1. *At the invitation of the Chair, the delegation of Sri Lanka took places at the Committee table.*

2. **Mr. Aryasingha** (Sri Lanka) said that the implications of accession would have to be studied before Sri Lanka could make a firm commitment to accede to the Optional Protocol to the Covenant. Such a commitment would also have to be preceded by further progress towards the ratification of the country's new Constitution.

3. **Ms. Jayasuriya** (Sri Lanka) said that although the Sri Lanka had not ratified the 1951 Convention Relating to the Status of Refugees, it had in recent years taken on a number of related obligations under international human rights instruments, and the principles of international law contained in that Convention served as a guide for the decisions the Government made with regard to refugees and asylum seekers. In addition, under a memorandum of understanding between Sri Lanka and the Office of the United Nations High Commissioner for Refugees, Sri Lanka had undertaken to cooperate fully with the Office's work in Sri Lanka. Sri Lanka was host to a relatively small number of asylum seekers and refugees: just over 600 persons were currently seeking asylum in the country, while 784 had been granted refugee status. The Government provided them with access to public health and education services.

4. The basic legal guarantees of the rights of Sri Lankan migrants were enumerated in the Constitution, while the primary piece of legislation applicable to Sri Lankan workers employed overseas was the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985 (as amended by Acts No. 4 of 1994 and No. 56 of 2009). One of the Bureau's objectives, as set out in the Act, was to regulate the activities of employment agencies that recruited migrant workers.

5. A network of labour attachés developed as part of the Colombo Process had recently held its first meeting, at which the attachés had discussed issues of relevance to overseas workers in various countries of destination. Such non-legislative developments were complementary to legislative developments, which had included an amendment to the Penal Code that had strengthened the provisions relating to human trafficking. The measures taken by the Government to address migration issues also fell within the framework of the Immigrants and Emigrants (Amendment) Act, No. 31 of 2006. Progress had been made towards ensuring that prospective overseas workers were given a pre-departure orientation.

6. Sri Lankan nationals, especially those from rural areas, generally migrated either to be able to afford better housing in Sri Lanka or to ensure that their children could get an education that would give them a better future. As a result, the Government had put in place a programme to provide housing loans and scholarships. The Ministry of Foreign Employment's development officers reached out to prospective migrant families throughout the country, which had led to the creation of files on nearly 250,000 prospective migrant families. The files would enable the Government to identify the families' needs, determine whether any children left behind would be properly cared for and refer the families to the relevant service providers.

7. **Ms. Sumanasekara** (Sri Lanka) said that the Government had given high priority to protecting children from abuse and neglect and had undertaken a number of initiatives to improve the situation, including the development of the national action plan on child protection. The aim of the National Child Protection Policy 2017-2027 was to harmonize the activities of all relevant stakeholders. It contained the guiding principles that were to inform all child protection efforts, and its implementation would involve cooperation with civil society. It was hoped that the Policy would win cabinet approval within three months.

8. Reports of child abuse were received by the National Child Protection Authority and other agencies, which forwarded them to a special police bureau operating in the offices of the Authority. The number of complaints of abuse had increased considerably from 2013 to 2015. Child protection officers, who referred cases of abuse and sexual exploitation to law enforcement authorities, were present at both district and divisional levels. The officers also participated in awareness-raising activities. Some 3,000 children's clubs, which were set up at village level by the Department of Probation and Childcare, also identified cases of violence and other forms of abuse and reported them to the relevant authorities. For its part, the Ministry of Justice had taken a number of steps to ensure that cases of child abuse were investigated.

9. The National Child Protection Authority had conducted awareness-raising programmes for hoteliers in south Sri Lanka to combat sex tourism involving children and taken steps to monitor and prevent the sexual exploitation of children online. A judge had been appointed to address the growing threat of bullying and sexual harassment via social media. Safe houses providing care services for women and child survivors of domestic violence had been set up in Ampara, Batticaloa and Jaffna, districts formerly affected by the war. Two helplines were in operation, and the number of complaints received by the Authority, currently more than 10,000 a year, had been increasing.

10. In December 2015, the Ministry of Justice had submitted a cabinet memorandum with a view to permitting the medical termination of pregnancy in specific circumstances, including pregnancy as a result of rape or incest, pregnancy in girls under the age of 16 and in cases of serious fetal impairment. The Ministry had been advised to seek the views of the country's religious authorities and include them in a revised memorandum. A decision had been made to expedite the drafting of a bill to amend the discriminatory provisions of the Land Development Ordinance. The bill would have to be endorsed by the Provincial Councils, however.

11. **Ms. Mafusa** (Sri Lanka) said that until 2000 mental health care had been limited to tertiary health-care facilities. Since then, however, mental health services had been integrated into the country's established primary care network. The devastating tsunami of December 2004, which had increased the prevalence of mental health problems, had led to greater efforts to ensure the provision of such services. A mental health policy had been adopted in 2005, and as a result 22 of the country's 25 districts had acute inpatient facilities. There were also 16 intermediate-care units, six of which were located in the country's Northern and Eastern provinces, and approximately 250 mental health outreach clinics, which enabled persons with mental disabilities to seek treatment in or near their communities. Finding trained mental health personnel was a major challenge, but measures had been taken to address it. Additional information in that regard would be submitted in writing.

12. One of the key features of the Government's efforts to provide mental health services had been its employment of more than 4,000 community volunteers to whom it had provided the basic training needed to care for persons with mental disabilities in the home. Health facilities in areas of the country formerly affected by conflict, including facilities for psychiatric care, had been rebuilt. Support had been provided for the treatment of persons with post-traumatic stress disorder, and health outreach services had been provided to former combatants in all 30 districts of the country's Northern and Eastern provinces. Despite those efforts, however, the provision of mental health services in Sri Lanka had not yet attained the expected standard. The Government recognized that more action was needed. The Ministry of Health was currently developing a new mental health policy.

13. Sri Lanka continued to provide free universal health care to all. The Government was committed to strengthening the public health system and was aiming to increase the health budget to more than 4 per cent of gross domestic product (GDP) by 2020. Although the number of private health-care facilities had increased considerably since 1990, even attracting medical tourists, more than 90 per cent of the population still used public facilities.

14. **Ms. Indraratne** (Sri Lanka) said that the Government allocated approximately 10 per cent of GDP to the provision of economic and social services. In 2016, government

health expenditures had been 4.5 per cent higher than in 2015, while education expenditures had increased by nearly 6 per cent over the same period. Estimates for 2017 indicated an increase of 7.5 per cent in the health budget and 11.8 per cent in the education budget. Expenditures for social protection programmes had been maintained at around 2.7 percent of GDP. The assertion that budgetary allocations to health and education had been cut was therefore incorrect.

15. **Ms. Manatunga** (Sri Lanka) said that marital rape was currently classified as a crime only in the case of non-consensual sexual relations in the context of a judicial separation. The Government recognized the need to rectify that shortcoming and had set up a committee that was reviewing offences under the Penal Code, including marital rape. One of its recommendations had been that psychosocial research should be conducted to determine the prevalence of marital rape. The committee had also recommended consultations with stakeholders, including victims, and the setting up of support services for victims.

16. Pursuant to the Official Languages Policy public servants in all branches had been denied promotions because of lack of proficiency in the official languages; the relevant figures would be provided to the Committee in due course. Provisions introduced in 2015 required that officers prove a level of proficiency in the second official language equivalent to that of their first language at entry into the service. The level required differed according to the post, but oral proficiency was mandatory at all levels. However, recruiting native Tamil speakers was proving to be a particular challenge. The long years of conflict had disrupted the education system in the Northern and Eastern provinces of the country, meaning that many people were unable to meet the requirements for police and government service employment. Between 2009 and 2015, fewer than 1,200 Tamil-speaking officers of both sexes had been recruited, and a recruitment drive in 2015 had attracted only 26 female police officers. Alternative procedures were being considered to improve the situation.

17. **Ms. Mafusa** (Sri Lanka) said that, while Sri Lanka had achieved favourable results in promoting breastfeeding and combating overweight, it lagged far behind other countries in reducing the prevalence of wasting and malnutrition in children. Supplements had been introduced for acutely malnourished children, and maternal care packages included improved screening for risk factors, micronutrient supplementation and nutrition counselling. Pregnant women, irrespective of income, were supplied with nutritious food packs. A review of the Multi-sector Action Plan for Nutrition 2013-2016 had highlighted gaps in its implementation and the new plan being drawn up included targets such as reducing the prevalence of wasting in children under the age of 5 years to 5.8 per cent and of stunting to 8.1 per cent by the end of 2020.

18. **Mr. Sadi**, noting that large numbers of Sri Lankan nationals sought employment in other countries and that some workers in the State party were forced to live on approximately US$ 2 per day, said that he would be interested to hear whether the system used to set the minimum wage conformed to the provisions of articles 7 and 11 of the Covenant, which called for decent pay and an adequate standard of living.

19. **Mr. Zerbini Ribeiro Leão** (Country Task Force) said that he would like details of the conditions provided for by law for workers in the agricultural sector. He would also like to hear about the benefits produced by the Samurdhi poverty alleviation programme. Reports indicated that recent reforms would lead to a 10 per cent annual reduction in funding for the programme, which could then cause serious debt problems for both the programme and its beneficiaries.

20. **Mr. De Schutter** said that the goal of achieving zero hunger might be compromised by proposals in the 2017 budget that would promote large-scale export-based agricultural plantations. He wondered how those two very different needs would be reconciled. He would also like to know how the Government intended to protect small-scale farmers in the context of increased pressure on land since the creation the previous year of land banks that made land available to foreign investors.

21. **Mr. Uprimny**, welcoming the State party's recent achievements in respect of economic growth and poverty reduction, noted that its spending on health and social services represented less than 1.5 per cent of GDP. World Bank figures showed that tax

revenue in the country currently represented less than 11 per cent of GDP and was produced primarily by indirect taxation, which mainly affected the poor. He understood that the Government was undertaking a tax reform and would like to know how it intended to ensure that the tax system was progressive and would produce sufficient resources to fund social spending. The Northern and Eastern provinces, in particular, had high levels of poverty, but were also home to many victims of the conflict who would be awarded reparations. In that connection, he would be interested in hearing the delegation's thoughts on the relationship between transitional justice and economic, social and cultural rights.

22. **Mr. Windfuhr** said that he would like to know how the Government intended to address the increasing informalization of the formal sector by recruitment agencies. In the plantation sector, for example, while there were collective agreements governing daily wages, workers could never be sure of the number of days they would be working and thus of their actual pay. There were also many problems in the area of trade union rights, particularly since the labour inspectorate was very short staffed. It was reported that many enterprises in the formal sector, including State-owned companies, did not make the requisite payments into the social security system, which jeopardized the financing of the system. There was also a growing problem of personal indebtedness, especially in female-headed households. In view of the Committee's previous recommendation that social security coverage should be expanded, did the State party have any plans for a social security action plan? With regard to the informal sector, which accounted for around 70 per cent of the labour force, consideration should be given to ways of ensuring a minimum wage and the right to organize.

23. **Ms. Liebenberg** (Country Task Force) said that she would like more information on the legal provisions enabling transgender persons to have their identity documents changed to reflect their gender identity. A government circular specified that a psychiatrist had to certify that either hormonal or surgical interventions had taken place, but that might not coincide with the wishes of the individuals concerned. She would also like details of the urban housing policy. Given the problems that had occurred when families and individuals were relocated from informal settlements to high-rise developments, which often disrupted the livelihoods of the persons affected, the State party might usefully consider upgrading existing dwellings instead.

The meeting was suspended at 11.10 a.m. and resumed at 11.20 a.m.

24. **Mr. Gunatilleke** (Sri Lanka) said that, of the four transitional justice mechanisms set up pursuant to the resolutions adopted by the Human Rights Council at its thirtieth and thirty-fourth sessions (A/HRC/RES/30/1 and A/HRC/RES/34/1), the truth-seeking mechanism and the Office of Reparations dealt with economic and social rights. A task force comprising representatives of civil society and academia had received suggestions from the public on the legislation to govern those two bodies, and its recommendations, currently being considered by the Government, included the need for socioeconomic rights to be included in the mandates of both the mechanism and the Office.

25. Nearly 900,000 internally displaced persons had been resettled in the Northern and Eastern provinces but over 42,000 were still awaiting durable solutions. The release and return of land occupied by the military and the settlement of land claims and disputes were being treated as matters of urgency. More than 24,000 acres of private land had been released thus far. That left 6,400 acres, of which approximately 500 acres would be released in 2017.

26. **Mr. Wimalaweera** (Sri Lanka) said that the Samurdhi poverty alleviation programme aimed to promote social justice through family- and community-based economic activities. More than 450,000 families, or 1.4 million persons, benefited from cash transfers under the programme. There were over 1,000 Samurdhi banks in the country that offered microcredit to low-income families; most of the beneficiaries were women. Other government programmes provided credit for business start-ups.

27. The National Minimum Wage of Workers Act and the Budgetary Relief Allowance of Workers Act, both adopted in 2016, were intended to improve the remuneration of workers in the private sector. Real wages in the agricultural and informal sectors had risen by 3.5 per cent and 8.2 per cent, respectively, between 2014 and 2015, and the Government

was taking steps to further increase the minimum wage. However, while wage levels were important, the Committee should also take into consideration that the State provided a number of subsidies and other types of assistance, including price controls, to benefit low-income workers. They thus had greater purchasing power than people with similar wage levels in other developing countries. To help workers in the informal sector, the Government had implemented a number of microcredit programmes.

28. In 2013, in response to the Social Protection Floor Initiative and in line with the Social Security (Minimum Standards) Convention, 1952 (No. 102) of the International Labour Organization (ILO), a study had been undertaken with ILO support to help determine future policy with regard to social security. Currently, around 75 to 80 per cent of possible beneficiaries were covered. The Government acknowledged that there was room for improvement, however.

29. **Ms. Indraratne** (Sri Lanka) said that the Government was pursuing fiscal policy reforms with a view to mobilizing more revenue, while at the same time reforming State-owned enterprises with the aim of reducing the budget deficit. To increase revenue, the Government was revising tax rates and redrafting the tax law to simplify procedures and broaden the tax base. It was also using information technology to improve tax administration services, and it had established a joint public-private committee to oversee budget management and execution. Government revenue had risen between 2015 and 2016 from 13.3 per cent of GDP to 14.2 per cent, and the budget deficit had fallen from 7.6 per cent of GDP to 5.4 per cent. The Government had granted concessions, including investment allowances, to large-scale industries to help them expand. It also had financing programmes for small and medium-sized enterprises.

30. **Mr. Pulle** (Sri Lanka) said that three of the judges on the Supreme Court and the Court of Appeal were conversant in the Tamil language and that one was of Tamil ethnicity. The legal regime governing evictions was set out by the Land Acquisition Act, which stipulated that government agencies must follow certain legal and administrative procedures when acquiring land for public purposes, with the aim of ensuring transparency and protecting the rights of landowners. When lands were required for a public purpose, the authority in question must first send a proposal to the Ministry of Lands and Parliamentary Reforms, which had to confirm the accuracy of the proposal, after which the acquisition procedure commenced and compensation was paid to the landowners. Additional details on the procedure could be provided if the Committee so wished.

31. A recent survey had revealed large numbers of low-income families living in abject conditions, including many in slums and shanties. In response, the Government had drawn up an urban regeneration programme aimed at providing basic facilities for all, relocating families to the nearest housing complex and providing education for their children and development opportunities to support their livelihoods. In the past two years, housing construction contracts had been awarded for 19 sites. Nearly 5,000 housing units had been handed over to families by the end of 2014, and 14,000 additional units were currently under construction.

32. **Mr. Wimalaweera** (Sri Lanka) said that Sri Lanka had some 600 labour inspectors and was in the process of filling another 100 vacancies. The inspectors worked throughout the country, from 11 provincial labour bureaus and 57 local offices. Each inspector was responsible for 20 inspections per month; the annual number of labour inspections was thus generally between 70,000 and 80,000.

33. **Ms. Crăciunean-Tatu** (Country Task Force), noting that the Government planned to increase the allocation to education from 3.7 per cent of GDP to 6 per cent by 2020, asked what problems and shortcomings the increase was intended to address and how the education budget was divided between infrastructure support and investment in teaching capacity. She was curious about a new budget line item entitled "capital carrying costs", which appeared to account for a significant portion of the education budget. She wondered what the funds allocated to that item were used for. The Committee had been informed that State education was gradually being commercialized and privatized, which was leading to uneven access to education for children from lower-income families. It had also heard that several groups, including children with disabilities, had limited or restricted access to State

education. In 2012, over one third of children with disabilities between the ages of 5 and 19 had reportedly received no education at all. Had the Government taken any measures to address that situation?

34. The Committee had received reports that children of refugees and asylum seekers were denied free access to education, including primary education. In the delegation's view, was that situation a result of a lack of national legislation or had it arisen because the State was not a party to the relevant international treaties? According to some reports, certain students were denied access to some schools by reason of their caste identity. Had the Government adopted any measures to address that issue? The Committee on the Elimination of Discrimination against Women had noted persistent gender stereotyping in the education system, with a lack of girls and women in certain fields. It would be useful to receive disaggregated data on gender distributions in the education system.

35. Because of a lack of qualified teachers, less than 1 per cent of schools were reportedly implementing trilingual proficiency provisions. Did the Government have a plan to train teachers to fill the gap? Civil society organizations had expressed concern about dramatic rises in hate speech and violent attacks against religious minorities and overt campaigns against them. What efforts was the Government making through the State education system to foster understanding among all ethnic groups and appreciation of the value of cultural diversity?

36. The Committee would like to know the official number of Veddahs in Sri Lanka. It would also like to learn whether access to certain rights was based on legal recognition as a minority. The Committee had received reports that restrictions on access to land were limiting the ability of indigenous Veddahs to protect their cultural identity. Evidently, existing legislation did not contain sufficient safeguards for the Veddah community. What measures were being taken to protect access to traditional lands for the Veddahs? Were members of the Veddah community consulted when measures were taken that would affect them? The Special Rapporteur on minority issues had in 2016 pointed to the need to protect and revitalize endangered languages of indigenous Veddah people and other groups. Were any efforts under way to do so?

37. **Mr. Pulle** (Sri Lanka) said that the Government maintained a zero-tolerance policy towards all violations of the law and did not condone any acts of intolerance towards minority groups. In addition to the provisions of the Penal Code, the International Covenant on Civil and Political Rights Act of 2007 prohibited advocacy of national, racial or religious hatred and incitement to discrimination, hostility or violence. Religious dialogue continued to take place to ensure interfaith harmony and understanding among the various groups. To promote reconciliation among the different communities, the Government had established the Ministry of National Coexistence, Dialogue and Official Languages and the Office for National Unity and Reconciliation, which had launched several policies and inter-community dialogues. All police officers were required to take immediate action whenever hate speech was reported or occurred. Failure to do so made them liable to sanctions under the police disciplinary code.

38. Language rights were protected in the court system and by the Constitution. The Official Languages Commission was empowered to recommend principles or policies related to the use of official languages and to monitor and supervise compliance with the constitutional provisions relating to language rights. The Commission was also able to conduct investigations on its own initiative and in response to complaints it received, and to initiate remedial action.

39. **Ms. Dahanayake** (Sri Lanka) said that education was recognized as a fundamental right in the Constitution and that it was State-funded and free of charge at all levels, including the university level. The adult literacy rate was over 92 per cent. Responsibility for the education system was shared between the central Government and the provincial councils. The Government had established a dense network of public schools with sufficient staff, thus ensuring a favourable student-to-teacher ratio. The languages of instruction could be either Sinhala and Tamil or Sinhala and English.

40. Ten per cent of the education budget was earmarked for subsidies for nutrition programmes, the provision of textbooks, uniforms, and scholarships. Children from

vulnerable groups had been integrated into the education system through schools providing special education and catering for children with special needs. In addition to increasing the education budget, the Government had recently taken several further steps to strengthen the education system, including the establishment of school supervisory boards, improvement of sanitary facilities at all schools, the placement of a limit on the number of students per class and the adoption of a new Education Act.

41. **Ms. Jayasuriya** (Sri Lanka) said that, while Sri Lanka was not a party to the 1951 Convention Relating to the Status of Refugees, the Government was mindful that certain principles of international law were generally recognized by the international community, and in that light it provided education to children of refugees and asylum seekers, which was also in keeping with its obligations under the Convention on the Rights of the Child. To the best of her knowledge, there were no caste-based restrictions on access to educational institutions.

42. Measures had been taken generally at the national level to mainstream gender in all sectors, and in the education sector specific measures had also been taken. The National Action Plan to Address Sexual and Gender-based Violence in Sri Lanka included several activities that were to be implemented under the purview of the Ministry of Education to incorporate gender considerations into school curricula and in textbooks from the primary through the tertiary levels. The existing curricula offered schoolchildren an understanding of the culture and religious values of the different communities and underscored the importance of ethnic and religious peace and harmony. The Ministry of Education had begun peace and reconciliation training campaigns for schoolteachers. The Tamil language was taught from a very young age. While such steps might seem modest, she believed the country was on the right path.

43. **Ms. Somaratne** (Sri Lanka) said that the majority of the Veddahs lived in two areas, Dambana and Maduru Oya. The Government had not adopted any specific legislation to protect the Veddah community, but their rights were safeguarded under the Constitution and other laws, and the authorities consistently engaged with members of the community on any matters affecting their social, cultural, developmental or economic status, including those related to their livelihood and land. Divisional coordinating committees met monthly with representatives of the community. The Government had established the Wanietto Trust, a fund to protect Veddah culture, and taken steps to safeguard the livelihoods of the Veddahs and provide members of the community with livelihood choices. It had also funded research on the community's lifestyle, medicines, literature and customs. The Ministry of Cultural Affairs had launched and funded a programme to preserve the traditional lifestyle, culture and beliefs of the community.

44. The Government recognized the community's right to reside in its traditional lands, especially in the Maduru Oya reserve. However, members of the Veddah population had over the years moved from traditional settlements to new areas where they had been provided with plots ranging from 0.5 to 2.5 acres. For those who had moved, assistance had been provided, thus permitting them to build 125 housing units. Education facilities were provided to the Veddah community without any discrimination, and the authorities had also carried out informal education projects in order to provide Veddah children with necessary life skills.

45. **Ms. Manatunga** (Sri Lanka) said that awareness of the rights of persons with disabilities had improved in Sri Lanka. The country had in 2016 ratified the Convention on the Rights of Persons with Disabilities and had since begun enacting legislation to implement that instrument. Legislation on sign language was currently being drafted, and a new set of rules was also being prepared relating to the rights of persons with visual impairments. Sri Lanka had also recently ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. The Government currently provided various types of assistance to persons with disabilities, including livelihood support, aid for assistive devices and housing assistance.

46. The Government recognized that children with disabilities had lower education levels and school attendance rates than other children and was aware of the need to put measures in place to address that problem. The percentage of persons with functional

disabilities who had completed the various levels of education ranged from about 35 per cent for primary education to just 1.3 per cent at the university level. There were currently some 25 special schools catering for children who were visually impaired or deaf, and there were also specific institutions for persons with autism and other disabilities. Children with disabilities received an educational allowance of up to 10,000 rupees. In 2016, 281 children had benefited from such assistance. University admissions rules had recently been changed to facilitate access to undergraduate programmes for students with disabilities, 356 of whom had entered university since 2012.

47. **Mr. Sadi** asked whether children from the Muslim community attended Muslim schools.

48. **The Chair** noted that in some cases discrimination based on caste was indirect. Procedures that were apparently neutral could be implemented in a discriminatory manner.

49. **Ms. Mafusa** (Sri Lanka) said that the public education system was accessible to all children, regardless of faith, with no restrictions. The Muslim community did maintain religious schools, madrasas, which must comply with the national education curricula.

50. **Mr. Kedzia** (Country Rapporteur) said that he wished the Government of Sri Lanka every success in its current efforts to incorporate economic, social and cultural rights into its Constitution as part of the ongoing reform process. While the Committee had placed particular emphasis on the legal dimension of compliance with treaty obligations, it acknowledged and supported the practical measures taken by the State party to give effect to the rights enshrined in the Covenant.

51. **Mr. Aryasingha** (Sri Lanka) said that the Government acknowledged the difficulties it faced and highly valued the input of the Committee. It was mindful of the importance of maintaining the momentum that had been gained in ensuring better implementation of human rights. He welcomed the constructive involvement of civil society and the national Human Rights Commission in that process. His delegation appreciated the constructive spirit that had prevailed during the dialogue and looked forward to receiving the Committee's concluding observations.

The meeting rose at 1 p.m.